

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOMINIQUE MERRIMAN,

Plaintiff,

v.

GENA JONES, et al.,

Defendants.

No. 2:22-cv-00877-DAD-DMC (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
ACTION DUE TO PLAINTIFF'S FAILURE  
TO STATE A CLAIM

(Doc. No. 12)

Plaintiff Dominique Merriman is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636 (b)(1)(B) and Local Rule 302.

On November 21, 2022, the assigned magistrate judge screened plaintiff's complaint and issued findings and recommendations recommending that this action be dismissed, without leave to amend, due to plaintiff's failure to state a cognizable claim upon which relief may be granted. (Doc. No. 12.) Specifically, the magistrate judge found that plaintiff's allegations that defendants deprived him of his personal property are insufficient to state a cognizable claim under § 1983 because "plaintiff has an available state common law tort claim remedy." (*Id.* at 2.) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days from the date of service. (*Id.* at 3.) To date, no

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1 objections to the pending findings and recommendations have been filed, and the time in which to  
2 do so has now passed.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
4 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
5 findings and recommendations are supported by the record and by proper analysis.

6 Accordingly,

- 7 1. The findings and recommendations issued on November 21, 2022 (Doc. No. 12)  
8 are adopted in full;
- 9 2. This action is dismissed due to plaintiff's failure to state a cognizable claim for  
10 relief; and
- 11 3. The Clerk of the Court is directed to close this case.

12 IT IS SO ORDERED.

13 Dated: **January 4, 2023**

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15 UNITED STATES DISTRICT JUDGE  
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